

2005 Senate Bill 290

Date of enactment: **January 4, 2006**
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2005 WISCONSIN ACT 97

AN ACT *to repeal* 71.07 (5d) (c) 3.; *to renumber and amend* 71.07 (5b) (b), 71.28 (5b) (b) and 71.47 (5b) (b); *to amend* 71.07 (5d) (a) 1. a., 71.07 (5d) (a) 1. b., 71.07 (5d) (b), 560.205 (1) (j), 560.205 (3) (d), 560.275 (2) (b) and 560.275 (2) (c); and *to create* 71.07 (5b) (b) 2., 71.07 (5d) (a) 2m., 71.07 (5d) (c) 3m., 71.28 (5b) (b) 2., 71.47 (5b) (b) 2. and 560.205 (1) (km) of the statutes; **relating to:** claiming early stage seed and angel investment income and franchise tax credits.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 71.07 (5b) (b) of the statutes is renumbered 71.07 (5b) (b) 1. and amended to read:

71.07 (**5b**) (b) 1. For taxable years beginning after December 31, 2004, subject to the limitations provided under this subsection and s. 560.205, and except as provided in subd. 2., a claimant may claim as a credit against the tax imposed under ss. 71.02 and 71.08, up to the amount of those taxes, 25 percent of the claimant's initial investment paid in the taxable year to a fund manager that the fund manager invests in a business certified under s. 560.205 (1).

SECTION 2. 71.07 (5b) (b) 2. of the statutes is created to read:

71.07 (**5b**) (b) 2. In the case of a partnership, limited liability company, or tax-option corporation, the computation of the 25 percent limitation under subd. 1. shall be determined at the entity level rather than the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity's organizational documents. The entity shall provide to the department of revenue and to the department of commerce the names and tax identification numbers of the

claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

SECTION 3. 71.07 (5d) (a) 1. a. of the statutes is amended to read:

71.07 (**5d**) (a) 1. a. ~~An individual~~ A person who reviews new businesses or proposed new businesses for potential investment of the individual's person's money.

SECTION 4. 71.07 (5d) (a) 1. b. of the statutes is amended to read:

71.07 (**5d**) (a) 1. b. A network of individuals persons who satisfy subd. 1.

SECTION 5. 71.07 (5d) (a) 2m. of the statutes is created to read:

71.07 (**5d**) (a) 2m. "Person" means a partnership or limited liability company that is a nonoperating entity, as determined by the department of commerce, a natural person, or fiduciary.

SECTION 6. 71.07 (5d) (b) of the statutes is amended to read:

71.07 (**5d**) (b) *Filing claims.* Subject to the limitations provided in this subsection and in s. 560.205, a claimant may claim as a credit against the tax imposed under s. 71.02 or 71.08, up to the amount of those taxes, in each taxable year for 2 consecutive years, beginning with the taxable year ~~in which the claimant's initial~~

* Section 991.11, WISCONSIN STATUTES 2003-04 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

investment is made as certified by the department of commerce, an amount equal to 12.5 percent of the claimant's bona fide angel investment made directly in a qualified new business venture ~~in the taxable year~~.

SECTION 7. 71.07 (5d) (c) 3. of the statutes is repealed.

SECTION 8. 71.07 (5d) (c) 3m. of the statutes is created to read:

71.07 (5d) (c) 3m. Partnerships and limited liability companies may not claim the credit under this subsection, but the eligibility for, and the amount of, the credit are based on their payment of amounts under par. (b). A partnership or limited liability company shall compute the amount of credit that each of its partners or members may claim and shall provide that information to each of them. Partners and members of limited liability companies may claim the credit in proportion to their ownership interest or as specially allocated in their organizational documents.

SECTION 9. 71.28 (5b) (b) of the statutes is renumbered 71.28 (5b) (b) 1. and amended to read:

71.28 (5b) (b) 1. For taxable years beginning after December 31, 2004, subject to the limitations provided under this subsection and s. 560.205, and except as provided in subd. 2., a claimant may claim as a credit against the tax imposed under s. 71.23, up to the amount of those taxes, 25 percent of the claimant's initial investment paid ~~in the taxable year~~ to a fund manager that the fund manager invests in a business certified under s. 560.205 (1).

SECTION 10. 71.28 (5b) (b) 2. of the statutes is created to read:

71.28 (5b) (b) 2. In the case of a partnership, limited liability company, or tax-option corporation, the computation of the 25 percent limitation under subd. 1. shall be determined at the entity level rather than the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity's organizational documents. The entity shall provide to the department of revenue and to the department of commerce the names and tax identification numbers of the claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

SECTION 11. 71.47 (5b) (b) of the statutes is renumbered 71.47 (5b) (b) 1. and amended to read:

71.47 (5b) (b) 1. For taxable years beginning after December 31, 2004, subject to the limitations provided under this subsection and s. 560.205, and except as provided in subd. 2., a claimant may claim as a credit against the tax imposed under s. 71.43, up to the amount of those taxes, 25 percent of the claimant's initial investment paid ~~in the taxable year~~ to a fund manager that the fund manager invests in a business certified under s. 560.205 (1).

SECTION 12. 71.47 (5b) (b) 2. of the statutes is created to read:

71.47 (5b) (b) 2. In the case of a partnership, limited liability company, or tax-option corporation, the com-

putation of the 25 percent limitation under subd. 1. shall be determined at the entity level rather than the claimant level and may be allocated among the claimants who make investments in the manner set forth in the entity's organizational documents. The entity shall provide to the department of revenue and to the department of commerce the names and tax identification numbers of the claimants, the amounts of the credits allocated to the claimants, and the computation of the allocations.

SECTION 12m. 560.205 (1) (j) of the statutes is amended to read:

560.205 (1) (j) It has been in operation in this state for not more than ~~7~~ 10 consecutive years.

SECTION 12n. 560.205 (1) (km) of the statutes is created to read:

560.205 (1) (km) It has not received aggregate private equity investment in cash of more than \$10,000,000 prior to being certified under this subsection.

SECTION 13. 560.205 (3) (d) of the statutes is amended to read:

560.205 (3) (d) *Rules.* The department of commerce, in consultation with the department of revenue, shall promulgate rules to administer this section. The rules shall further define "bona fide angel investment" for purposes of s. 71.07 (5d) (a) 1. The rules shall limit the aggregate amount of tax credits under s. 71.07 (5d) that may be claimed for investments in businesses certified under sub. (1) at \$3,000,000 per taxable calendar year for taxable calendar years beginning after December 31, 2004. The rules shall also limit the aggregate amount of the tax credits under ss. 71.07 (5b), 71.28 (5b), and 71.47 (5b) that may be claimed for investments paid to fund managers certified under sub. (2) at \$3,500,000 per taxable calendar year for taxable calendar years beginning after December 31, 2004.

SECTION 14. 560.275 (2) (b) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

560.275 (2) (b) *Matching grants and loans.* 1. The department may make a grant or loan from the appropriation under s. 20.143 (1) (c) or (ie) for the purpose of funding professional ~~services~~ activities related to developing a proposed technologically innovative product, process, or service, if the applicant has received a grant from the federal government for a substantially similar purpose.

2. The department may make a grant or loan from the appropriation under s. 20.143 (1) (c) or (ie) for the purpose of funding professional ~~services~~ activities related to the accelerated commercialization of a technologically innovative product, process, or service, if the federal government has notified the applicant that the applicant will receive a grant from the federal government for a substantially similar purpose.

SECTION 15. 560.275 (2) (c) of the statutes, as affected by 2005 Wisconsin Act 25, is amended to read:

560.275 (2) (c) *Bridge grants and loans.* The department may make a grant or loan from the appropriation under s. 20.143 (1) (c) or (ie) to a person who has received early stage financing from 3rd parties or a grant from the federal government to fund early stage research and development and who has sought additional early stage financing from 3rd parties or applied for an additional grant from the federal government to fund early stage research and development. A grant or loan under this paragraph shall be for the purpose of funding professional ~~services~~ activities necessary to maintain the project research and management team and funding basic operations until the applicant's additional 3rd party

financing request or federal grant application is approved or denied.

SECTION 16. Initial applicability.

(1) EARLY STAGE SEED AND ANGEL VESTMENT CREDITS. The treatment of sections 71.07 (5d) (a) 1. a. and b. and 2m., (b), and (c) 3. and 3m. and 560.205 (1) (j) and (km) and (3) (d) of the statutes, the renumbering and amendment of sections 71.07 (5b) (b), 71.28 (5b) (b), and 71.47 (5b) (b) of the statutes, and the creation of sections 71.07 (5b) (b) 2., 71.28 (5b) (b) 2., and 71.47 (5b) (b) 2. of the statutes first apply to taxable years beginning on January 1, 2005.